

**TOWN OF DAVIE
REGULAR MEETING
AUGUST 7, 2002**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:02 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present were: Mayor Venis, Vice-Mayor Clark, and Councilmembers Paul, Starkey, and Truex. Also present were Town Administrator Willi, Town Attorney Kiar and Town Clerk Muniz recording the meeting.

3. OPEN PUBLIC MEETING

Mayor Venis advised the public of the rules for the Open Public Meeting.

Ann Prochaska, 7520 SW 42 Court, spoke of the need for a sidewalk on SW 76 Avenue, and submitted petitions from the residents. Public Works Director Bruce Bernard explained that there was insufficient right-of-way to continue the sidewalk and this had not been included in the budget. He suggested discussing with Broward County the potential of installing a sidewalk in their right-of-way to connect to 73rd Avenue to keep the children on the north side of Orange Drive, so they do not have to cross over. There was general consensus to proceed with exploring that option.

Doris Rogan, SW 42 Court, concurred with Ms. Prochaska and added that the speed limit should be reduced as well.

Joy Tillinghast, 7461 SW 42 Court, supported the neighborhood's request.

Central Broward Water Control District Commissioner Marian Russell indicated that because of reapportionment, she now represented a portion of the Town. She welcomed residents to contact the District office with any of their concerns.

Joe Fadden, SW 52 Way, noted that Ferncrest Utility had withdrawn their petition for a rate increase, which he felt was a direct result of Council's efforts. He hoped Council would continue their efforts to improve the situation.

Louise Jakl, 5211 SW 33 Street, asked for assistance with respect to the time limit imposed by the Building Division in the cleanup portion of their roof renovation work at their home in Everglades Lakes mobile home community.

Norm Blanco, 280 SW 72 Avenue, noted that he was able to arrange for the planting of Queen palm trees along SW 71 Terrace, which were acquired from the Continental Tree Farm. On a separate issue, he asked if the ordinance could be changed or an exception be made to provide for a secretary for the Community Relations Advisory Board. Mayor Venis indicated that Council was planning to change the ordinance.

4. PRESENTATIONS

4.1. Old Davie School - Bonnie Stafiej

Later in the meeting, Councilmember Paul recognized Rose Anderson and Vic McCall for their work in restoring the Old Davie School and presented them with a key to the School.

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4.2. Police Athletic League

Ron Nelson introduced Justin Montgomery and spoke of his athletic accomplishments and the civic contributions he had made.

Wayne Arnold, Chair of the Community Redevelopment Agency, reviewed the highlights of the Agency's 2002 budget.

Mayor Venis advised that item 9.8 had been withdrawn by the petitioner and item 9.9 was requested to be tabled until September 4, 2002.

Councilmember Paul made a motion, seconded by Councilwoman Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis advised that the petitioner for item 8.13 had requested a tabling to August 21, 2002.

Councilmember Truex made a motion, seconded by Councilmember Paul, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis advised that the petitioner for 8.34 had requested a tabling to August 21, 2002.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis advised that item 12.3 was requested to be added to the agenda.

Councilwoman Starkey made a motion, seconded by Councilmember Paul, to add item 12.3. In a voice vote, all voted in favor. (Motion carried 5-0)

5. MAYOR/COUNCILMEMBER'S COMMENTS

6. TOWN ADMINISTRATOR'S COMMENTS

7. TOWN ATTORNEY'S COMMENTS

Comments were provided later in the meeting.

8. CONSENT AGENDA

Minutes

- 8.1. May 14, 2002 - Workshop Meeting
- 8.2. June 5, 2002 - Workshop Meeting
- 8.3. June 5, 2002 - Regular Meeting
- 8.4. June 19, 2002 - Regular Meeting
- 8.5. July 18, 2002 - Special Meeting

Proclamation

- 8.6. National Breast Cancer Awareness Month (October 2002) and National Mammography Day (October 18, 2002)

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Home Occupational Licenses

- 8.7. A.B. Tracer Service, 11191 SW 26 Street
- 8.8. Annie's Auto Sales and Finance Corp., 5555 SW 61 Avenue
- 8.9. Artistic Resources, Inc., 2730 SW 112 Avenue
- 8.10. Party Land Bouncers & Party Supplies, Inc., 2991 SW 137 Terrace
- 8.11. J.P. Hogan Concrete Cutting, 1331 Bristol Avenue
- 8.12. Picture It!, 3875 SW 111 Way

Resolutions

- 8.13. **PLAT REVISION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A REVISION TO THE RESTRICTIVE NOTE OF THE "P & J ESTATES" PLAT, AND PROVIDING AN EFFECTIVE DATE. (DG 6-2-02, 10591 Orange Drive) (tabled from July 10, 2002)

- R-2002-172 8.14. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH SYNALOVSKI GUTIERREZ ROMANIK ARCHITECTS, INC. FOR ARCHITECTURAL SERVICES.

- R-2002-173 8.15. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF DAVIE AND THE OFFICE OF THE BROWARD COUNTY, FLORIDA, CLERK OF THE COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT FOR THE PROCESSING AND COLLECTION OF PARKING CITATIONS AND AUTHORIZING THE USE OF HEARING OFFICERS IN THE SYSTEM ESTABLISHED BY BROWARD COUNTY FOR SUCH PURPOSE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

- R-2002-174 8.16. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE EFFECTIVE DATE FOR THE TENANT LEASE AGREEMENT FOR CONTINUATION OF THE RESIDENTIAL SECURITY PROGRAM AT WOLF LAKE PARK.

- R-2002-175 8.17. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE "FIRST AMENDMENT TO RECIPROCAL LEASE AGREEMENT WITH THE TOWN OF DAVIE" PREPARED BY THE SCHOOL BOARD OF BROWARD COUNTY FOR THE CONSTRUCTION OF THE NOVA HIGH SCHOOL ATHLETIC FIELD STADIUM.

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- 8.18. **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2002-176 AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND/OR APPROPRIATE STAFF TO SUBMIT AN APPLICATION, AND IF AWARDED PERMISSION TO ACCEPT GRANT FUNDING UNDER THE LOCAL LAW ENFORCEMENT BLOCK GRANTS (LLEBG) PROGRAM IN THE AMOUNT OF \$65,780 ALLOCATING THE REQUIRED MATCH OF \$7,309 FROM THE LAW ENFORCEMENT TRUST FUND.
- 8.19. **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2002-177 AUTHORIZING APPLICATION AND EXECUTION OF A FLOOD MITIGATION GRANT UNDER THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, SECTION 319 NON-POINT SOURCE MANAGEMENT GRANT PROGRAM. (\$488,692 grant funding; \$1,492,381 matching funds)
- 8.20. **EXPENDITURE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2002-178 AUTHORIZING THE EXPENDITURE OF LAW ENFORCEMENT TRUST FUNDS FOR THE COMPLETION OF THE K-9 TRAINING FACILITY AND CONFORMING TO THE U.S. POLICE CANINE ASSOCIATION REGULATIONS. (\$6,640)
- 8.21. **EXPENDITURE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2002-179 AUTHORIZING THE EXPENDITURE OF LAW ENFORCEMENT TRUST FUNDS FOR THE CONSTRUCTION OF THREE NEW OFFICES IN THE ROAD PATROL AREA, AT A COST NOT TO EXCEED \$35,000.00
- 8.22. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2002-180 THE BID FOR ROOF REPAIR AT ROBBINS EQUESTRIAN CENTER. (Colonial Roof Service - \$14,670)
- 8.23. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2002-181 THE BIDS FOR HEAVY EQUIPMENT RENTAL WITH OPERATOR. (lowest primary and secondary bidders)
- 8.24. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2002-182 THE BID FOR SUPPLY AND INSTALLATION OF HURRICANE BARRIERS AT OLD DAVIE SCHOOL. (Hurricane Protection Industries - \$89,730.66)
- 8.25. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2002-183 THE BID FOR SUPPLY AND INSTALLATION OF AN IRRIGATION SYSTEM ON LINEAR PARK. (Gaskin Irrigation - \$53,690)

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- 8.26. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2002-184 THE BID FOR CHEMICAL REAGENTS. (Environmental Reagents - \$10,000/year)
- 8.27. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2002-185 THE BID FOR CONSTRUCTION OF WATER PLANT IMPROVEMENTS AND WATER TRANSMISSION MAIN AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR SUCH SERVICES. (Wharton-Smith, Inc. - \$1,717,000)
- 8.28. **WAIVER OF FEES** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2002-186 AUTHORIZING THE TOWN OF DAVIE TO WAIVE THE RENTAL FEES AT ROBBINS LODGE FOR THE APLASTIC ANEMIA AND MDS INTERNATIONAL FOUNDATION, INC. FOR A FUNDRAISER ON SATURDAY, OCTOBER 26, 2002. (\$330)
- 8.29. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2002-187 THE CONTINUED PURCHASE OF COMPUTER EQUIPMENT AND SOFTWARE FROM DELL COMPUTER CORPORATION TO COMPLETE THE TOWNWIDE COMPUTERIZATION PROJECT. (\$363,900)
- 8.30. **FIRE RESCUE ASSESSMENT** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2002-188 RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES AND PROGRAMS IN THE TOWN OF DAVIE, FLORIDA; ESTABLISHING THE ESTIMATED ASSESSMENTS RATE FOR FIRE ASSESSMENTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2002; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION THEREOF; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.
- 8.31. **ANNEXATION AGREEMENT AMENDMENT** - A RESOLUTION OF THE
OWN OF DAVIE, FLORIDA, AMENDING AN ANNEXATION AGREEMENT BETWEEN THE TOWN OF DAVIE AND JOLMY ENTERPRISES, INC.

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Site Plans

- 8.32. SP 4-2-02, Palm Trace Landings Three, 5980 SW 30 Street (RM-25, County and RM-16) *Site Plan Committee recommended approval based on the planning report and on the following: 1) change the landscape plan on the Areca Palms to indicate five-foot overall height, four-foot spread, six-foot on center; 2) to connect the sidewalk from building 5 to building 8, which would enable the sidewalk to go all the way around the lake; 3) the sidewalk is to connect to building 13 and to be indicated on the plans; 4) to install an additional dumpster enclosure at the southwest corner of building 11; 5) provide a "cross-section FF" to accurately show existing and proposed conditions including a chain-link fence; and 6) to center the Alexander Palms in the curbed islands by the garages*
- 8.33. SP 4-7-02, Phoenician Cove, 5400 Pine Island Road (R-3) *Site Plan Committee recommended approval based on the staff's report and the following: 1) add a park bench/sitting area on site in the location to be determined by the architect; 2) add a guard rail to the east end of the cul-de-sac and install hedge material on the west side of the guard rail, with the hedge material to be selected by the landscape architect and approved by the Town; and 3) if there are trees that are determined to be preservable by Jack Martin, Chief Landscape Inspector, those trees are to be relocated to a Town park*
- 8.34. SP 4-8-02, McDonald's at the Plaza, southwest corner of State Road 84 and Hiatus Road (B-2) *Site Plan Committee recommended approval based on staff's recommendations and the following: the site is to be examined by the Town's Chief Landscape Inspector in order to address the Board's concern about the visibility of the drive-thru which is the east elevation of the building and possibly adding six to eight accent trees in this area if there is room*
- 8.35. SP 5-6-02, Nova Southeastern University Health Professions Division Garage Expansion, 3301 College Avenue (CF) *Site Plan Committee recommended approval subject to staff's recommendation and subject to submitting a revised landscape plan to staff*

Site Plan Modification

- 8.36. SP 4-6-02, Dunkin Donuts, 5141 South University Drive (B-3) *Site Plan Committee recommended approval*

Councilmember Truex requested that items 8.8, 8.29, 8.30 and 8.31 be removed from the Consent Agenda. Councilmember Paul requested that item 8.16 be removed.

Councilmember Paul made a motion, seconded by Councilwoman Starkey, to approve the Consent Agenda without items 8.8, 8.16, 8.29, 8.30 and 8.31. In a voice vote, all voted in favor. (Motion carried 5-0)

8.8 Councilmember Truex indicated there was a complaint about a business operating at this location. Mr. Willi indicated that he would have to report back after looking into the matter.

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Councilmember Truex made a motion, seconded by Councilmember Paul, to table to August 21, 2002. In a voice vote, all voted in favor. (Motion carried 5-0)

8.16 Councilmember Paul confirmed that Council had received an e-mail on July 23, 2002 regarding Wolf Lake.

Councilmember Paul made a motion, seconded by Councilmember Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

8.29 In answer to Councilmember Truex, Information Systems Director Frank Apicella indicated that the request was to authorize expenditure of additional funds approved in the Capital Plan. The same dollar limit would be imposed regardless of how long it took to complete the acquisition and installation.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to approve. In a voice vote, with Councilmember Truex dissenting, all voted in favor. (Motion carried 4-1)

8.30 Assistant Town Administrator Ken Cohen indicated that during the budget meetings, it was decided that the residential rate would not change, but there were changes to the commercial rates. With respect to the institutional classification, there were originally entities placed in this classification, however, they were not considered as such by the State. The same mistake occurred with respect to the educational classification. This caused an increase to those entities left in the respective categories because there were less of them sharing the burden. The first public hearing would be in September, but the schedule needed to be approved this evening. Mayor Venis wanted to look into how the mistakes occurred and asked that the files be researched.

Councilmember Truex made a motion, seconded by Vice-Mayor Clark, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

8.31 Councilmember Starkey made a motion, seconded by Councilmember Truex to deny.

William Myers, representing Jolmy Enterprises, advised that when the property was annexed, they were permitted to install three billboards with a height limitation of 35 feet according to the County's Code. The billboards were to be installed on the Department of Transportation's property which height limitation was 65 feet above the adjacent highway. Councilmember Truex was not in favor of granting the request. He noted that the petitioner had initially indicated that assistance would be given to certain charities and subsequently, contact with those charities was withdrawn.

Mr. Myers was concerned that Jolmy would be paying more than other companies with billboards in the Town. Jolmy needed the road construction to be completed in order to make use of their property and this was not happening, even though the State offered it free of charge. He indicated that the \$8,000 should be sufficient. Mr. Willi explained that the original agreement did not contain any pledge of funds which was something originally offered by Mr. Myers at a Council meeting. At that time, the matter was assigned to outside counsel, Mike Burke. Mr. Myers was still in agreement with the \$8,000.

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Vice-Mayor Clark thought it was bad government to force a contribution to a charity. She had visited the site and it would not be possible to see the billboards at a height of 35 feet. Vice-Mayor Clark indicated that she supported the request and added that this matter should be considered on the merits of the billboards alone.

In answer to Councilmember Paul, Mr. Willi indicated that the road was a matter of contention between the parties. He added there was litigation ongoing. Councilmember Paul commented that she would have been less opposed to the billboards if they were to advertise Jolmy's truck stop and not potentially everything else.

Sylvia Clement, Vice President of Jolmy Enterprises, was concerned that Mr. Forman was granted approval for 65-foot billboards with no questions asked, whereas Jolmy had attempted to get needed approvals for five years. She had no problem with making a donation to charity, but simply wanted to be treated fairly. Mr. Myers clarified that it was originally indicated to him that Jolmy would not have to make a donation and that they should have their matter before Council at a time after the Forman request. Jolmy had been trying to get this resolved since last November and there was a cost of \$70,000 per month associated with the delay.

As there was some confusion as to the whereabouts of a letter committing to the donation, Art Rosen, a business associate of Jolmy Enterprises, suggested approving the modification subject to verification that the letter was in the Town's possession or Jolmy provides it within 15 hours. He indicated that this project would be a tremendous asset to the Town.

Councilmember Truex thought the \$8,000 was a bad deal and added that the Town could get considerably more from another billboard vendor. The Town had every right to demand a large fee for the privilege of having a billboard. Mayor Venis clarified it was a matter of height, not the number of billboards, and the attorney had done some research on this. Vice-Mayor Clark reiterated that it was unreasonable to suggest billboards at that location be limited to a height of 35 feet.

Councilmember Starkey was not willing to encourage billboards. She stated she was voting to deny and stand by the annexation agreement and added that her decision had nothing to do with donations to charity.

Councilmember Paul pointed out that the language actually provided for heights over and above 65 feet. Town Engineer Larry Peters explained that the language provided for 65 feet above the adjacent roadway, which was a minimum of 5 feet, and the overpass, which was approximately 20 feet. However, an exact measurement on the overpass was not known. In answer to Councilmember Truex's question, Development Services Director Mark Kutney indicated that the existing billboard heights varied.

In a voice vote, with Vice-Mayor Clark dissenting, all voted in favor. (Motion carried 4-1)

Mayor Venis recognized Clerk of the Courts Howard Forman. Mr. Forman thanked Council for approving item 8.15.

9. PUBLIC HEARINGS

Ordinances - First Reading (Second and Final Reading to be held August 21, 2002)

- 9.1. **VACATION/ABANDONMENT-** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, VACATING A PORTION OF ROAD RIGHT-OF-WAY FOR SW 142 AVENUE ADJACENT TO THE "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 5-2-02, SW 142 Avenue between SW 14 Street and SW 26 Street)

Town Clerk Muniz read the ordinance by title.

Dawn Sonneborn, representing the petitioner, was available to answer questions.

Mayor Venis opened the public hearing portion of the meeting.

Bruce McGee expressed support for the proposed ordinance. He believed there was only one resident in the affected neighborhood that was opposed.

Mayor Venis closed the public hearing.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes, Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

- 9.2. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE CODE OF ORDINANCES, CHAPTER 24, DIVISION 2, ENTITLED "ENFORCEMENT" TO COMPLY WITH CURRENT STATE LAWS, INCLUDING THOSE APPLICABLE TO PARKING SPACES FOR DISABLED PERSONS AND TO MODIFY EXISTING PROCEDURES SO AS TO DELEGATE AUTHORITY FOR ENFORCEMENT AND COLLECTION OF PARKING VIOLATION FINES TO THE OFFICE OF THE BROWARD COUNTY, FLORIDA, CLERK OF THE COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT; AUTHORIZING THE USE OF HEARING OFFICERS IN THE SYSTEM ESTABLISHED BY BROWARD COUNTY FOR SUCH PURPOSE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Town Clerk Muniz read the ordinance by title.

Mayor Venis opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Truex made a motion, seconded by Councilmember Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes, Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

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- 9.3. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA REPEALING EXISTING ARTICLE XV, TELECOMMUNICATIONS TOWERS AND ANTENNAS, SECTIONS 12-504 - 12-508 AND SECTION 12-34(G), COMMUNICATION APPARATUS; AND PROVIDING FOR THE REPLACEMENT OF THE AFOREMENTIONED SECTIONS WITH PROPOSED INTERIM REGULATIONS OF WIRELESS COMMUNICATIONS FACILITIES, PROVIDING FOR A HIERARCHY OF PREFERRED SITING ALTERNATIVES, CONTAINING PROVISIONS FOR EVALUATION OF SITING APPLICATIONS; PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE TOWN CODE, PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Muniz read the ordinance by title.

Mayor Venis opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Anthony Lepore advised that this was an interim ordinance to address applications until a master plan was completed and explained the ordinance.

Councilmember Truex asked if it was necessary to extend the moratorium until after the final public hearing on this ordinance. Mr. Lepore indicated it would depend on when the Town determined an application was submitted. If that was deferred until August 22nd, there would be no need to extend the moratorium. In answer to Councilmember Truex's question with respect to approval of satellite dishes, Mr. Lepore advised that this provision was ascertained from another governmental agency and it had been indicated it was customary for approval by the Town Administrator or designee. Councilmember Truex preferred it be submitted to Council.

On page 8, Councilmember Truex asked why R-1 was treated differently than higher density. Mr. Lepore responded that a permit was required for replacement of existing structures. If it were attached to a building that was non-residential in purpose, then it would be allowed on the roof or facade. Councilmember Truex felt that all residential districts should be treated the same.

Councilmember Starkey referred to the abandonment section and asked how one would verify a structure was abandoned. Mr. Lepore advised that staff was in the process of completing a comprehensive inventory. Plus all licenses were subject to periodic review and an on-going monitoring program was possible.

On page 9, Setbacks, Councilmember Truex asked that the language be revised to address property used for residential, but not zoned residential. In response to Councilmember Truex's concern about height and natural grade, Mr. Lepore indicated he would address it.

Mr. Lepore asked for a consensus on Councilmember Truex's request to treat all residential equally. The consensus was the special permit process for all districts.

Councilmember Truex made a motion, seconded by Councilmember Paul, to approve subject to all these changes. In a roll call vote, the vote was as follows: Mayor Venis - yes, Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

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Councilmember Truex made a motion, seconded by Councilmember Paul, to extend the moratorium to August 22, 2002. In a voice vote, all voted in favor. (Motion carried 5-0)

11.1 Councilmember Starkey and Mayor Venis disclosed the names of those with whom they had discussed this matter, including staff and residents.

Mayor Venis opened the floor for a public hearing.

Vickie Nash, 10491 North Lake Vista Circle, wanted to install a fence to the canal on her property and be the only one who had access to it.

Lori Bolton Munach, 10370 South Lake Vista Circle, submitted her memorandum into the record and reviewed the highlights.

Jim Bond, 10431 North Lake Vista Circle, indicated that he lived on a canal and had fencing on one side to the water edge, but had not been permitted to do the same on the other side. If fencing with gate access was permitted in other residential districts, he felt his neighborhood should also have this option.

Scott Kroven indicated that he lived on a bridle path in Long Lake Estates and he wanted to have the fences removed to improve the open space atmosphere.

Michael Gottlieb, 2981 West Lake Vista Circle, advised that 76% of the community had voted in favor of fencing to the canal, lake or bridle path. Also, covenants of Long Lake Estates prohibited a resident to enter another resident's property for whatever purpose. Fencing to the water line provided for greater use of the property and therefore, commanded more money. The only fence he was permitted would cut his property in half, which was unfair. In answer to Councilmember Truex's question, Mr. Gottlieb recalled only one resident who was opposed and believed the 24% had no opinion on the matter.

Linda Zinheim, 10230 South Lake Vista Circle, supported fencing on the bridle paths and canals.

Phillip Fullman, 2941 West Lake Vista Circle, indicated that there were two negative votes in the community. He supported the fencing.

Manual Haskell, resident of Long Lake Estates, saw this as a common sense matter and favored fencing for better use of the property.

Jason Curtis, 3801 Flamingo Road, did not have an opinion about the fencing matter, but wanted to emphasize that the Town was not supportive of gated communities in general.

Councilmember Paul advised that she wanted to support the residents, but did not want to see the fencing.

Councilmember Starkey supported the fencing in order for residents to make better use of their property. She referred to another matter where an easement was abandoned and the property was given to the residents, whereas in this situation the residents were treated differently. Councilmember Paul thought it was a different situation because it was to ensure a road would not be built. With respect to the agreement on lakes at the last meeting, she did not recall voting on it and disagreed with the attorney's interpretation. Mayor Venis clarified that Council voted on fencing to a lake's water edge. He believed the problem was that when the site plan was approved, there was language that provided for general use of the open space, yet it was a private community. Although a supporter of open space, he agreed with Councilmember Starkey and supported the fencing. Mr. Kutney clarified that common open space referred to use by residents of the development.

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Councilmember Truex thought it was a different situation with the lake in that particular community and asked about the fence by the bridle path. Councilmember Starkey indicated that the fence and hedge were installed by the developer as a buffer from pedestrians. Councilmember Truex asked whether the fence could be removed. Mr. Kutney indicated that Councilmember Starkey was correct, but he could research it further, if requested. He noted that co-mingling open space with private property was not a good idea; therefore, whether someone had a legal right was a question that would need to be researched.

Councilmember Truex felt that whatever the community wanted should be adopted, but there should not be infringement on the public in any way. He did not feel that gates were practical and this opened an opportunity for problems, except in situations where maintenance was required for drainage, for example.

Councilmember Starkey thought the most important issue was that property owners should be allowed to fence their property, which was only reinforced by the fact that it was allowed in other neighborhoods. Additionally, care should be taken not to approve site plans in the future with the same language. Approval for existing developments should be addressed by individual developments. With respect to swimming pools, a declaratory statement was anticipated from the Building Commission as to whether the water's edge was a natural barrier.

Councilmember Starkey made a motion to permit to fence down to water's edge on lake property, on canal property and up to the bridle path and allow for those fences to go forward.

Councilmember Truex questioned whether it was permissible to make exceptions to the Code. Considering the peculiarities in each case, Mr. Connick suggested an ordinance be presented that dealt with each "E" district separately.

Councilmember Starkey amended her motion to permit fencing in communities both at lakefront properties, in the "E" zoning areas, canal front properties, to bridle paths, providing it belonged to the homeowner, only fencing their property subject to the Florida Statute and the homeowners' association's approval. Mr. Connick thought problems might occur with a blanket approach and suggested addressing each neighborhood individually.

Councilmember Truex asked about a special permit for the entire community versus an ordinance. Mayor Venis asked about a variance approach. Mr. Connick preferred an ordinance that inserted a subsection in the "E" district ordinance which addressed Long Lake Estates. Councilmember Truex did not favor an individual set of rules for each neighborhood. Mr. Kutney commented that the problem was practically solved with the direction given to staff back in November. After a planning solution was reached, staff would meet with each homeowner's association and the end result would be a developer's agreement between the Town and the development to correct all the issues. He advised that technically, all the "E" regulations were repealed and it was not a good idea to continue perpetuating something that had been repealed.

Councilmember Paul indicated that based on this evening's comments, she could give it the benefit of the doubt and now consent to Long Lake Estates. Mr. Kutney referred to Councilmember Paul's previous comment that there was considerable open space in an area that had one unit per acre of property, but it belonged to the private individual.

Mayor Venis concluded that an ordinance would be presented at the next meeting for Long Lake Estates which would address fencing to canals and bridle paths.

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In a voice vote, all voted in favor. (Motion carried 5-0)

After a brief discussion, Mayor Venis confirmed that the residents could obtain permits except for those who had pools. Mr. Connick suggested that there be a hold harmless until the ordinance was enacted.

Ordinances - Second and Final Reading

2002-22 9.4. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT (COUNTY), TO CC, COMMERCE CENTER DISTRICT, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 1-1-02, Higgins-Deni, 2351 State Road 84) *Planning and Zoning Board recommended approval*

Town Clerk Muniz read the ordinance by title.

Mayor Venis opened the public hearing portion of the meeting.

Mickey Olrich, representing the petitioner, was present.

Mayor Venis closed the public hearing.

Councilmember Starkey made a motion, seconded by Vice-Mayor Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - out of room. (Motion carried 4-0)

2002-23 9.5. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 4-2-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM R-2, LOW DENSITY DWELLING DISTRICT TO RO, RESIDENTIAL/OFFICE DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Pulice Land Surveyors Inc./Mauer, 5800 Davie Road) *Planning and Zoning Board recommended approval*

Town Clerk Muniz read the ordinance by title.

Mayor Venis opened the public hearing portion of the meeting.

Elizabeth Pulice, representing the petitioner, was present.

Mayor Venis closed the public hearing.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

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9.6. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,
2002-24 APPROVING REZONING PETITION ZB 5-1-02, CHANGING THE
CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE
FROM B-2, COMMUNITY BUSINESS DISTRICT TO R-5, LOW MEDIUM
DENSITY DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO
COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING
FOR AN EFFECTIVE DATE. (Seligman, 7730 and 7740 NW 30 Street) *Planning
and Zoning Board recommended approval*

Town Clerk Muniz read the ordinance by title.

Mayor Venis opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Truex asked that passage be subject to the same conditions that were passed at first reading. Mr. Connick indicated that a declaration of covenants and restrictions was executed by everyone with property interests.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to approve the way we approved it last time. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

Quasi Judicial Item

9.7. **VARIANCE** - V 4-3-02, Khavanin/Hicks, 13301 SW 36 Court (A-1) (to reduce the minimum rear yard from 40 feet to 26 feet to allow a detached garage in a location that allows mature live oak trees to remain undisturbed) (tabled from July 10, 2002) *Planning and Zoning Board recommended approval with the following stipulations: 1) that a "4-Hour" fire rating dry wall be used for walls and ceiling; and 2) for noise prevention, that there be an eight inch separation between the dry wall and the concrete block with insulation*

Mayor Venis swore in the witnesses. He noted that testimony had been heard previously on this matter. Gus Khavanin, representing the petitioner, advised that notations were inserted with respect to the sprinkler system and public meetings.

Mayor Venis opened the public hearing portion of the meeting.

Mayor Venis indicated that he had visited the premises and felt comfortable about the public meetings not occurring.

Councilmember Paul indicated that she had also visited the premises and it appeared that the driveway would still cover some of the tree root system. In that area, she suggested that pavers be used.

Councilmember Starkey indicated that she had discussed the project with Mr. Khavanin and agreed with the pavers.

Councilmember Paul noted the landscaping would be helpful around the garage to ease the impact on the ESL side.

Mayor Venis closed the public hearing.

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Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to approve subject to all the additions Council had made. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

Items to be Withdrawn or Tabled

9.8. **WITHDRAWN BY PETITIONER**

REZONING - ZB 4-1-02, Higgins-Deni/Belle Commerce, LLP, 10220 State Road 84

This item was withdrawn.

9.9. **STAFF REQUESTING A TABLING TO SEPTEMBER 4, 2002**

Southeast corner of State Road 84 and Scarborough Drive (tabled from July 3, 2002)

This item was tabled earlier in the meeting.

10. **APPOINTMENTS** (*Pursuant to Ordinance 2002-9, all appointments are to be registered voters unless the person is a minor or a legal resident alien*)

10.1. School Advisory Board (one exclusive appointment - Councilmember Truex; term expires April 2004) (insofar as possible, members are to have experience in educational matters)

Councilmember Truex appointed Shannon Arias.

10.2. Parks and Recreation Advisory Board Agency (one exclusive appointment - Councilmember Truex; terms expire April 2004) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

Councilmember Truex deferred his appointment.

11. **OLD BUSINESS**

11.1. Fencing in Designated Open Space

This item was discussed previously.

11.2. School Site "NN" - Councilmember Starkey

Councilmember Starkey indicated it had come to her attention this site may be in jeopardy and asked that the Town's lobbyist and Council attend the meeting on August 13th. She noted that the City of Sunrise was attempting to have the school within their boundaries. Councilmember Starkey indicated that it would be helpful to have updated statistics from Mr. Kutney to take to the meeting, with respect to the developments that had five-plus bedroom homes.

Councilmember Paul noted that the Western High School upgrades should also be emphasized at that August 13th School Board meeting. She indicated that the majority of

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Country Isles' students were zoned to attend Western High School, but they were slated to go to Indian Ridge Middle School. Councilmember Paul suggested this point be raised as well.

12. NEW BUSINESS

12.1. Orange Blossom Festival - Councilmember Paul

Councilmember Paul advised that she had met with representatives of the Davie-Cooper City Chamber of Commerce and received a letter from Chamber President Brad Hartman. The Chamber was interested in the Town taking over the festival portion of the Orange Blossom Festival events. She stated that she had agreed to serve as chair and expanded on her ideas. Councilmember Truex suggested including the Historical Society. He felt the non-profit organizations and charities should be permitted to participate free of charge. There was Council consensus for the Town to take over the festival portion and for Councilmember Paul to proceed as requested.

12.2. Special Permits for Kennels - Mayor Venis

Mr. Kutney recalled the history on kennels and difficulties that had occurred. It was recommended that staff study and consider a special permit process. There was Council consensus to proceed as requested.

12.3. TU 7-1-02, The Round Up

In response to Councilmember Truex's question, it was noted that they would pay for the police detail.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

TOWN ATTORNEY'S COMMENTS

Mr. Kiar advised that Mr. Burke would be attending the next meeting.

TOWN ADMINISTRATOR'S COMMENTS

REGIONAL FIRE RESCUE SERVICES DELIVERY PLAN. Mr. Willi advised that he had received a call from the County Administrator who inquired about the intent of the Town's resolution concerning the Broward County Regional Fire Rescue Services Delivery Plan. The County Administrator wanted to make sure that the Town was not confusing this with the recent Charter amendment issue. Mr. Willi explained the County was only requesting clarification of the resolution. Council confirmed there were two distinct issues: (1) Charter and (2) Capital Program.

MAYOR/COUNCILMEMBER'S COMMENTS

COUNCILMEMBER PAUL

OPEN SPACE/ZONING IN PROGRESS. Councilmember Paul asked for clarification of the direction given by Council at their workshop. She had conducted a survey and received 1,299 citizen responses. Councilmember Paul discussed in detail the calculation process and particulars with respect to preservation of open space.

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Mayor Venis recalled that attorney Joan Thompson had suggested they move forward on the design criteria, but would have further discussion on the open space portion. That was what was agreed. Councilmember Starkey recalled the vote was to move forward on one unit per acre and Council was to receive additional concepts with respect to open space. Before any change was made, she wanted to read the workshop meeting transcript. Councilmember Paul was unclear as to what direction was given at the workshop. Mayor Venis indicated that at the time he was not happy with the 7,500 square feet, and Ms. Thompson had suggested moving forward with part of it and continue to work on the open space.

Mr. Kutney explained it was clear that staff would not be prepared to complete work on open space by the end of the moratorium because Council was not able to provide direction. The price of not having open space in force at the end of the moratorium was that more property would be developed without criteria in place. He indicated that direction was needed in order to meet the October 3rd deadline.

Councilmember Truex was not in favor of extending the zoning in progress date and was concerned about unresolved matters forcing an extension. He wanted to proceed with what was possible now. Mayor Venis indicated he was not satisfied with the statistical data that was presented. Councilmember Paul pointed out that it was impossible to favor open space and the 35,000 square foot lots as it stood.

Councilmember Starkey was concerned that the open space options were limited and ultimately the final regulations would be insignificant. Mayor Venis commented that it may be delayed two or three weeks after October 3rd, but Council's direction was not to put it on the back burner. Had he wanted it not to go forward, he would have voted against it. It was the attorney's recommendation at the time to continue to discuss it and work on it; however, he could not predict his vote on the ordinance ultimately.

Mr. Kutney explained that staff wanted to work on the open space, but obviously did not wish to sacrifice time for the other items if there was no chance. Councilmember Paul posed the idea of placing an ordinance on the November ballot. Mr. Kutney indicated that he recognized the critical nature. Councilmember Paul emphasized the need for something that allowed developers to get started.

Councilmember Starkey noted that the Open Space Advisory Committee was never part of the process and they should have input. Councilmember Truex pointed out that the Planning and Zoning Board likewise was not a participant. Councilmember Paul outlined the original scope of the Open Space Advisory Committee and cautioned that the process not be delayed.

13. ADJOURNMENT

There being no further business to discuss and no objections, the meeting adjourned at 11:02 p.m.

Approved _____

Mayor/Councilmember

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Town Clerk